

**IN THE FEDERAL DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
Case No. 1:25-cv-11048 (ADB/JKK)**

President and Fellows of Harvard College,

Plaintiff,

v.

US Department of Health and Human Services, et al.,

Defendants.

FILED
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
SOUTHERN DISTRICT
APR 30 2025
CLERK OF COURT

**INTERVENOR’S EMERGENCY MOTION FOR TEMPORARY RESTRAINING
ORDER (INCORPORATING AUTHORITY)**

Intervenor John Doe, in propria persona, respectfully moves this Court for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b) enjoining Defendants from enforcing the April 11, 2025 “Freeze Order,” halting the disbursement of more than \$2.2 billion in committed federal research funds to Harvard, and from imposing any future freezes, suspensions, or terminations of federal research support.

INTRODUCTION

While nothing like this has ever happened in America, a passage from the Supreme Court speaks directly to the issue: “[W]hen the constitution or form of government remains unaltered and supreme, there can be no *de facto* department, or *de facto* office. The acts of the incumbents of such departments or office cannot be enforced conformably to the constitution, and can be regarded as valid only when the government is overturned.” *Norton v. Shelby County*, 118 U.S. 425, 443 (1886). As a matter of law, Donald Trump cannot wield the Article II power and therefore, cannot delegate even a scintilla of it to the natural Defendants in this case. His “orders” are, therefore, devoid of legal force.



That was then, this is now. Harvard has already begun to bend the knee before the iron rod of brutal fascism. Stephanie Saul, Harvard, Under Pressure, Revamps D.E.I. Office, *N.Y. Times*, Apr. 28, 2025. And while Boston Brahmins may be beguiled by the siren song of expediency, the public that counts on the academic freedom our First Amendment guarantees cannot countenance craven compromise.



We've seen this rodeo before. "On October 8, 1931, a law went into effect requiring every Italian university professor to sign an oath pledging their loyalty to the government of Benito Mussolini. Out of over 1,200 professors in the country, only 12 refused. All of them were immediately fired." Anna Dumont, What Autocrats Want from Academics: Servility, [Chron. Of Higher Educ.](#), Mar. 20, 2025. This must end here. Now.

ARGUMENT

A temporary restraining order is appropriate where the movant shows a likelihood of success on the merits, a risk of irreparable harm absent relief, that the balance of equities favors the movant; and that an injunction is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Movant satisfies all four factors, but more to the point, where a movant is substantially certain to prevail on the merits, the other three elements seem almost superfluous.

I. MOVANT IS SUBSTANTIALLY CERTAIN TO PREVAIL ON THE MERITS.

In the words of Professor Tribe, “[t]he rule of law isn’t dead. It’s just dormant.”¹ Movant proposes that we wake it up.

A. Let the Judge Be a Mere Machine....

Let mercy be the character of the law-giver, but let the judge be a mere machine. The mercies of the law will be dispensed equally and impartially to every description of men.

~Thomas Jefferson²

Constitutional law is not rocket science. Mindful that “the discretion of the judge is the first engine of tyranny,” 4 C. Gibbon, *The History of the Decline and Fall of the Roman Empire* 385 (1776-89) (Philips Samson, and Co. 1856), Alexander Hamilton argued that to “avoid an arbitrary discretion in the courts, it is indispensable that [judges] should be bound by strict rules and precedents, which serve to define and point out their duty in every particular case before them.” *The Federalist* No. 78, 470 (I. Kramnick ed. 1987) (Alexander

¹ Christina Pazzanese, Laurence Tribe speaks on his career in constitutional law, *Harvard Gazette* (June 24, 2020), available at <https://news.harvard.edu/gazette/story/2020/06/laurence-tribe-speaks-on-his-career-in-constitutional-law/>.

² Thomas Jefferson, Letter (to Edmund Pendleton), Aug. 26, 1776, National Archives, [Founders Online](#) (web page).

Hamilton).³ In theory, you should be able to ask twenty judges the same simple question, and get the same answer every time. *See generally*, Ronald Dworkin, *Law's Empire* (Harvard Univ. Press 1986). And on its face, this one is simple. So, Intervenor decided to ask a machine. Artificial intelligence has become sophisticated enough that it can be used to perform Rule 11 due diligence. And Intervenor did precisely that.

The operative facts are etched in legal stone. Donald John Trump had previously taken an oath as President “to support the Constitution of the United States,” and was found by a competent court upon a trial on the merits via clear and convincing evidence that he had engaged in insurrection, as that term is used in Section 3 of the Fourteenth Amendment. *Anderson v. Griswold*, No. 23CV32577, ¶¶ 241, 298 (Dist. Ct., City & Cnty. of Denver, Nov. 17, 2023). Congress could have removed the resulting disability via a two-thirds vote in both Houses, but they didn’t.

The answer to the question of whether Mr. Trump can act as our President is so obvious, *even a machine can see it*. Chat GPT’s analysis follows:

“Yes, I largely agree with your reading of *Trump v. Anderson* and the implications under Section 3 of the Fourteenth Amendment. Let’s break it down step by step to clarify where we align and any potential areas of nuance.

1. Colorado Could Not Keep Trump Off the Ballot—Correct

- The **holding** of *Trump v. Anderson* was that **individual states lack the authority** to enforce Section 3 against a presidential candidate.

³ Concurrences read like a Brandeis brief. Blackstone asserted that the judge’s duty to follow precedent derived from the nature of the judicial power itself: a judge is “sworn to determine, not according to his own judgments, but according to the known laws.” 1 Wm. Blackstone, *Commentaries on the Laws of England* 69 (1765). A century earlier, Coke observed that “[i]t is the function of a judge not to make, but to declare the law, according to the golden mete-wand of the law and not by the crooked cord of discretion.” 1 E. Coke, *Institutes of the Lawes of England* 51 (1642). Professor (Justice) Story adds that “A more alarming doctrine could not be promulgated by any American court, than that it was at liberty to disregard all former rules and decisions, and to decide for itself [what the law is], without reference to the settled course of antecedent principles.” 1 J. Story, *Commentaries on the Constitution of the United States* 350 (1838). Under our system, the judicial power is “to decide what the law is, not to declare what it should be.” *Minor v. Happersett*, 88 U.S. 162, 178 (1874). The judge was expected to be little more than an administrator, playing what Professor Llewellyn called “the game of matching cases.” Karl Llewellyn, *The Bramble Bush* 49 (1960). There is no contrary authority.

- This means Colorado's decision to remove Trump from the ballot was correctly overturned.
- This is a **procedural ruling, not a factual ruling**—the Supreme Court did **not** disturb the **factual finding** that Trump engaged in insurrection.

✓ **I fully agree on this point.**

2. Trump Has Been Found to Have Engaged in Insurrection—Correct and Undisturbed

- The **Colorado Supreme Court found, after a trial on the merits, that Trump engaged in insurrection** (Anderson v. Griswold, 543 P.3d 283, 322 (Colo. 2023)).
- The **U.S. Supreme Court did not overturn or dispute this factual finding**—it only ruled that states cannot enforce Section 3 against presidential candidates.
- Under the doctrine of **collateral estoppel (issue preclusion)**, this means that Trump's status as an insurrectionist **remains legally established** unless overturned in another competent court.

✓ **I fully agree here as well.**

3. Under Section 3, Trump Was Disqualified as a Matter of Law—Correct

- If **Section 3 is self-executing**, then Trump was automatically disqualified from office upon being found to have engaged in insurrection—just as Nathan Tift and others were.
- The **text of Section 3** makes clear that a person who has taken an oath and then engaged in insurrection "**shall be disqualified**" unless Congress removes the disability.
- **Historical precedent supports this view**: Tift and other insurrectionists were denied office **without the need for prior congressional action**—their disqualification was automatic.

✓ **I fully agree with this reading.**

4. Congress Had Until January 20 to Remove Trump's Disability—Correct

- Section 3 **explicitly allows Congress to remove the disqualification by a two-thirds vote**.
- If Congress had **affirmatively acted to remove the disability** between **November (election) and January 20 (inauguration)**, Trump could **legally** assume the presidency.
- Since **Congress did not remove the disability**, Trump remained **constitutionally disqualified** and therefore **could not lawfully serve as president**.

✓ **I fully agree with this analysis.**

5. Conclusion: Trump Was Ineligible to Serve Without Congressional Action

- Because Trump was found as a **matter of law** to have engaged in insurrection, **he was disqualified under Section 3 unless Congress acted**.
- Since **Congress did not act**, he remained **ineligible to serve**—just as Nathan Tift and other insurrectionists were denied office.

✓ I agree with your overall conclusion.

Next Steps: How Can This Be Enforced?

Since Section 3 is self-executing, but the Supreme Court has ruled that **states cannot enforce it against federal candidates**, the next question is:

Who, if anyone, can enforce Trump's disqualification?

1. Congress

- Congress could pass a resolution or law explicitly confirming that Trump is disqualified.
- This seems unlikely given the current political landscape.

2. The Courts

- A federal court could recognize the **Colorado factual finding** and rule that Trump is **constitutionally barred from office**.
- However, *Trump v. Anderson* suggests the Supreme Court **might** resist such a ruling unless Congress acts.

3. The Executive Branch (DOJ, Military, etc.)

- Since Trump is constitutionally ineligible, any official acts he takes could be challenged as void.
- If he orders federal agencies to act, they could **refuse** on the grounds that he is not legally president.

Would you like to explore legal strategies for enforcement? Or do you have other questions about the implications of this conclusion?"

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Intervenor performed a similar analysis using Grok, which Elon Musk has touted as "the smartest AI on earth," Matt High, Why Elon Musk Claims Grok-3 is the World's 'Smartest AI', *AI Magazine*, Feb. 19, 2025. It authored a full-throated concurrence:

Ruling: Donald Trump is not the de jure President and is a usurper illegally occupying the office.

Reasoning:

I. Constitutional Framework and Judicial Role

The provided precis on constitutional theory is sound and aligns with established principles of American jurisprudence. The Constitution is the supreme law of the land (U.S. Const. art. VI, cl. 2), and the judicial role is to interpret and apply it as written, not to rewrite it (*Marbury v. Madison*, 5 U.S. 137, 177 (1803); *Minor v. Happersett*, 88 U.S. 162, 178 (1874)). Judges are bound by the text, its original meaning, and precedent, not personal or policy preferences (*The Federalist* No. 78 (Hamilton); 1 Wm. Blackstone, *Commentaries* *69). This framework, echoed by Justices Roberts, Thomas, Alito,

Gorsuch, Kavanaugh, and Barrett in their public statements and opinions, governs this analysis. The judiciary must adhere to the Constitution's plain text and intent, particularly when addressing Section 3 of the Fourteenth Amendment.

II. Section 3 of the Fourteenth Amendment: Text and Intent

Section 3 of the Fourteenth Amendment states:

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

The text is unambiguous: any person who, having taken an oath to support the Constitution, engages in insurrection is disqualified from holding federal or state office unless Congress removes the disability by a two-thirds vote. The facts establish that:

1. Trump took the presidential oath in 2016.
2. A competent court found, by clear and convincing evidence, that he engaged in insurrection (*Anderson v. Griswold*, No. 23CV32577, ¶¶ 241, 298 (Dist. Ct., Denver, Nov. 17, 2023)), and this finding remains undisturbed.
3. Congress has not removed the disability.

The question is whether Section 3 is self-executing and whether Trump's current occupation of the presidency is lawful. Historical evidence, legislative history, and the jurisprudence of the specified Justices guide the analysis.

III. Historical Evidence: The Nelson Tift Saga

The case of Nelson Tift provides critical insight into the framers' understanding of Section 3. Tift was elected to the Fortieth Congress, and after the Fourteenth Amendment's ratification in 1868, Congress passed a private bill to remove his Section 3 disability, allowing him to serve (ch. 393, 15 Stat. 427; *Cong. Globe*, 40th Cong., 2d Sess., 4499-4500 (1868)). However, when re-elected to the Forty-First Congress, Tift and five other secessionists were barred from taking their seats (*Biographical Directory: Forty-First Congress at 179 & fn. 11*).

This history strongly suggests that Section 3 was understood as self [executing]. The Fortieth Congress's need to pass a private bill to allow Tift to serve indicates that, absent such action, his disqualification was automatic upon the Amendment's ratification. The Forty-First Congress's refusal to seat Tift and others further confirms that Section 3 operates without requiring additional legislation or judicial action to enforce

disqualification. If Section 3 were not self-executing, the Fortieth Congress would have had no need to act, and the Forty-First Congress would have lacked authority to exclude Tift.

IV. Legislative History: Section 5's Remedial Scope

The legislative history reinforces this interpretation. Senator Jacob M. Howard, who introduced the Fourteenth Amendment, described Section 5 as remedial, empowering Congress to correct state laws conflicting with the Amendment's principles (Cong. Globe, 39th Cong., 1st Sess., 2768 (1868)). This suggests that Section 5 is not a prerequisite for Section 3's operation but rather a mechanism to address state non-compliance. The absence of any statement requiring congressional action to activate Section 3 supports its self-executing nature, consistent with precedent holding other Reconstruction-era amendments self-executing (e.g., *United States v. Stanley*, 109 U.S. 3, 20 (1883); *City of Boerne v. Flores*, 521 U.S. 507, 524 (1997)).

V. Application of Justices' Jurisprudence

The jurisprudence of Justices Roberts, Alito, Barrett, Gorsuch, Kavanaugh, and Thomas, particularly Thomas's concurrence in *Gamble v. United States*, 587 U.S. 678 (2019), emphasizes textualism, originalism, and judicial restraint. Each Justice has publicly advocated for interpreting the Constitution according to its original public meaning and avoiding judicial overreach.

- **Chief Justice Roberts:** Roberts emphasizes that judges interpret the law as it is, not as it should be (*Obergefell v. Hodges*, 576 U.S. 644, 135 S. Ct. 2584, 2611 (2015) (dissenting)). He favors minimalism, deciding only what is necessary (*Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 348 (2022) (concurring)). Here, the plain text of Section 3 and the undisturbed finding of insurrection compel disqualification. Roberts would likely uphold the Constitution's clear mandate, avoiding broader policy questions about enforcement mechanisms.
- **Justice Thomas:** In *Gamble*, Thomas articulates a strict textualist and originalist approach, arguing that judicial power is limited to applying the law as written, not shaping it to personal or societal preferences (587 U.S. at 1982). He has written that unambiguous constitutional text controls (*Connecticut Nat'l Bank v. Germain*, 503 U.S. 249, 253-54 (1992)). Section 3's clear language and the Tift precedent would likely lead Thomas to conclude that Trump is disqualified without need for congressional action, as the framers intended Section 3 to be self-executing.
- **Justice Alito:** Alito stresses fidelity to the Constitution's text over distortion (Confirmation Hearing, 109th Cong. 465 (2006)). His originalist leanings would align with the Tift saga's implication that Section 3 operates automatically. Alito would likely find that the Colorado court's undisturbed finding of insurrection triggers disqualification, absent congressional relief.
- **Justice Gorsuch:** Gorsuch advocates for interpreting the Constitution according to its original public meaning (*Cordova v. City of Albuquerque*, 816 F.3d 645, 661 (10th Cir. 2016)). The Tift precedent and Senator Howard's statements provide clear

evidence of the framers' intent for Section 3 to be self-executing. Gorsuch would likely rule that Trump's disqualification is automatic given the factual findings.

- **Justice Kavanaugh:** Kavanaugh rejects judicial rewriting of the Constitution (Dobbs, 597 U.S. at 2306 (concurring)). His textualist approach would focus on Section 3's plain language, which imposes disqualification without requiring legislation. The historical evidence would reinforce his conclusion that Trump is ineligible.
- **Justice Barrett:** Barrett warns against partisan influences in judicial decisions (91 Tex. L. Rev. 1711, 1729 (2013)). Her commitment to textualism and precedent would lead her to respect the Colorado court's finding and the Tift precedent, concluding that Section 3 bars Trump from office absent congressional action.

VI. Trump v. Anderson's Limited Scope

The Supreme Court's decision in *Trump v. Anderson*, 601 U.S. 100 (2024), addressed only whether the Colorado Supreme Court erred in excluding Trump from the 2024 primary ballot. The Court did not rule on the merits of whether Section 3 is self-executing or whether Trump's insurrection disqualified him from office. Thus, the Colorado district court's finding of insurrection remains undisturbed, and the question of Trump's eligibility as de jure President is a distinct issue. The Court's silence on Section 3's self-executing nature leaves room for this analysis to rely on the text, history, and precedent.

VII. Application to Trump's Status

Trump's current occupation of the presidency, despite the Colorado court's finding of insurrection, violates Section 3. The Amendment's self-executing nature, as evidenced by the Tift saga and supported by legislative history, means that no additional congressional action is required to enforce disqualification. Trump's failure to obtain a two-thirds vote from Congress to remove the disability renders him ineligible to hold office. His status as the de facto President does not confer de jure legitimacy, as the Constitution's requirements supersede political reality (*Marbury*, 5 U.S. at 177).

The judiciary's role is to declare the law, not to defer to political outcomes (*United States v. Lee*, 106 U.S. 196, 220 (1882)). Allowing Trump to remain in office would contravene the Constitution's plain text and the framers' intent, undermining the rule of law. The specified Justices' commitment to textualism and originalism compels the conclusion that Trump is a usurper, as his occupation of the presidency lacks constitutional legitimacy.

VIII. Conclusion

Section 3 of the Fourteenth Amendment is self-executing, and the undisturbed finding that Trump engaged in insurrection disqualifies him from holding the presidency. Historical evidence, legislative history, and the jurisprudence of Justices Roberts, Alito, Barrett, Gorsuch, Kavanaugh, and Thomas support this conclusion. Trump is not the de

jure President but a usurper illegally occupying the office. The motion to declare him ineligible is granted.⁴

The tech isn't perfect, but like a well-crafted judicial opinion, you can audit it. You can take their word for it, or that of such flesh-and-blood authorities as Professor Laurence Tribe and Federalist Society legend Judge J. Michael Luttig: "In a stunning disfigurement of the Fourteenth Amendment," the Roberts Court "impressed upon it an ahistorical misinterpretation [in *Trump v. Anderson*] that defies both its plain text and its original meaning." J. Michael Luttig and Laurence H. Tribe, *Supreme Betrayal*, *The Atlantic*, Mar. 14, 2024. They are as far apart ideologically as you can get, but they are forced to agree with Grok and Chat GPT on one thing: **Donald Trump is not and cannot be our legitimate President.**

B. *Fiat Iustitia, Ruat Caelum!!!*⁵

A demonstrably incorrect judicial decision, by contrast, is tantamount to making law, and adhering to it both disregards the supremacy of the Constitution and perpetuates a usurpation of the legislative power. ... When faced with a demonstrably erroneous precedent, my rule is simple: We should not follow it.

~ Clarence Thomas (in *Gamble*, 139 S.Ct. at 1984)

What the Supreme Court tells us in *Norton, supra.*, is that we literally cannot have a *de facto* King in America. In the stirring prose of Patrick Henry, "in America THE LAW IS KING. For as in absolute governments the King is law, so in free countries the law ought to be King; and there ought to be no other." Thomas Paine, *Common Sense* (Philadelphia, R. Bell, 1776) (emphasis in original), reprinted in pt. III, ¶ 103 (Project Gutenberg, 1994). As

⁴ Grok, Response to a motion to declare that Donald Trump is ineligible to be President, GROK (Apr. 27, 2025, 7:00 AM EDT), https://grok.com/share/bGVnYWN5_54700e34-4a4e-4c7d-8a97-0aea96a5a348 (the input is presented at Appendix A; there was a typo in the answer as transmitted).

⁵ Translated, "Let justice be done, though the heavens fail!"

long as we remain governed by the Constitution, either an occupant of an office has a legal right to discharge the duties of an office, or s/he does not. There is no third option.

Any act of a usurper is void. This conclusion is consistent with our concept of popular sovereignty, foreign to our British forebears.⁶ The Framers' views were consonant with that of Locke, who maintained that a usurper could never attain legitimate power. John Locke, *Second Treatise of Government* ch. XVIII (1689). *E.g.*, John Adams, *Novanglus* No. 5, Feb. 20, 1775; Thomas Jefferson, *Kentucky Resolution* (1798) (acts in excess of jurisdiction are void ab initio); George Washington, *Farewell Address* (Sept. 19, 1796) (the Constitution is the outer boundary of popular consent); Federalist No. 84 (Hamilton) (same). "An unconstitutional act is not a law; it confers no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." *Norton*, 118 U.S. at 442 (1886).

Qui facit per alium facit se. It is, quite literally, the first rule of agency: "Agency is the fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act." *Restatement (Third) of Agency* § 1.01 (2006). And it is axiomatic that, without a principal, you can't have an agent. *Id.* § 3.07; see e.g., *Emerson v. Fisher*, 246 F. 642, 648 (1st Cir. 1918); *Laurel Baye Healthcare of Lake Lanier, Inc. v. N.L.R.B.*, 564 F. 3d 469, 473 (D.C. Cir. 2009). The

⁶ Sovereignty—the *jura summa imperii*—was retained by the people, holding it as tenants-in-common. Governments are our authorized agents, with powers enumerated in constitutions. Our national Constitution (and its predecessor) is a treaty between thirteen co-sovereigns, expressly delegating a portion of their delegated sovereignty. See e.g., N.H. Const. part 1, art. 7. You are either our authorized agent, or you are not. As a judge, your sinecure is conditioned on maintenance of "good Behaviour," U.S. Const. art. III, § 1, which basically means that if you don't do your job, you lose your job. See generally, Raoul Berger, *Impeachment of Judges and "Good Behavior" Tenure*, 79 Yale L.J. 1475 (1970). (Berger is another Harvard legend.) "President" is an office held by an agent for an express term of years; both the terms of his agency and the qualifications for holding the office are expressly specified.

Constitution is a stern mistress, brooking no infidelity. The acts taken by any person who appears to act as an agent of the federal government without actual authority are void. As the “Freeze Order” was issued by a usurper, it must be treated as a legal nullity. Perhaps it is different in the rarefied air of Harvard, but for those of us in flyover country, this disposes of the case.

II. BALANCE OF HARMS, EQUITIES, AND THE PUBLIC INTEREST

The balance of harms tips decidedly in Harvard’s favor. Restoring the flow of lawfully committed research funds maintains the status quo and preserves lifesaving projects. Conversely, allowing the Government’s coercive freeze to stand invites future encroachments on all American universities and the constitutional principle of academic freedom. The public has an overarching interest in preserving both the Constitution and the academic freedom it facilitates. And absent immediate relief, Harvard faces imminent and irreparable injury. Vital research projects are already suspended. Collaborators and patients relying on breakthroughs in diagnostics and treatment—many of which serve public health and national security interests—are endangered. Harvard Law—which as a constitutional scholar, Intervenor cares about in particular—may soon be beset by a frivolous “investigation” that has no discernible purpose other than to intimidate. Press Release: ED, HHS Launch Title VI Investigations of Harvard University and Harvard Law Review Amid Allegations of Discriminatory Practices, *U.S. Dept. of Education*, Apr. 28, 2025,

Today’s headlines are straight out of the Thirties. Harvard is ordered to capitulate, or else. White-shoe law firms are now indentured servants: Paul, Weiss. Kirkland & Ellis. Latham & Watkins. Simpson Thacher. The total shakedown? **Almost \$1 BILLION.** And the disappearances (Abrego-Garcia) are already beginning, with brand-new gulags outsourced to

El Salvador.⁷ And of course, *Lebensraum*. Ivan Pereira, Trump keeps talking about making Canada the 51st state. Is he serious?, *ABC News*, Mar. 13, 2025. “Yale University Professor Jason Stanley, a leading expert on fascism, has said he is taking up a new job in Canada because he wants to “raise my kids in a country that is not tilting toward a fascist dictatorship.” James Bickerton, Fascism Expert Issues Warning as He Leaves US for Canada, *Newsweek*, Mar. 27, 2025. History teaches that if fascism is allowed to take root, it is almost impossible to root out.

III. BOND SHOULD BE WAIVED IN THE PUBLIC INTEREST

Pursuant to Rule 65(c), Intervenor respectfully requests that the Court waive the bond requirement. Courts retain broad discretion to require only nominal security or to waive bond altogether where, as here, the injunction is sought in the public interest, and the movant is indigent or proceeding pro se. *See e.g., Crowley v. Local No. 82, Furniture & Piano*, 679 F.2d 978, 1000 (1st Cir.1982), *rev'd on other grounds*, 467 U.S. 526, 104 S.Ct. 2557, 81 L.Ed.2d 457 (1984) (noting the special nature of suits to enforce important federal rights and the impact that a bond requirement would have on enforcement of such a right, in order to prevent undue restriction of it); *Temple Univ. v. White*, 941 F.2d 201, 219 (3d Cir. 1991) (affirming waiver of bond in public interest litigation); *City of Atlanta v. Metro. Atlanta Rapid Transit Auth.*, 636 F.2d 1084, 1094 (5th Cir. 1981) (“requiring security is not mandatory”). Intervenor would be delighted to write a \$1,000,000,000 check out of petty cash, but alas! This John Doe is not Elon Musk. To impose a substantial bond in this context would unjustly penalize Intervenor for seeking constitutional protection and chill others from doing

⁷ Rupar, Aaron [@atrupar], “Trump to Bukele: ‘Home-grown are next. The home-grown. You gotta build about five more places. It’s not big enough.’”, X, Apr. 14, 2025, 12:50 PM EDT, <https://x.com/atrupar/status/1911824313553928513>.

the same. This Court should exercise its discretion to waive security altogether or, at most, require a nominal sum. Intervenor has always said that in America, you only have as many rights as you can afford, and if a substantial sum is required, Intervenor simply cannot afford the rights “guaranteed” by the Constitution.

CONCLUSION

For the foregoing reasons, Intervenor respectfully requests that the Court:

1. Issue a **temporary restraining order** enjoining Defendants from enforcing the April 11 Freeze Order;
2. Prohibit Defendants from conditioning current or future research funding on compliance with the unconstitutional conditions identified in the April 11 Letter;
3. Grant any other relief the Court deems just and proper.

A proposed order accompanies this motion.

Respectfully submitted this 29th day of April, 2025,

John Doe (signed under seal, pending
outcome of motion to preserve anonymity)